

Senate File 105 - Introduced

SENATE FILE 105

BY BROWN

A BILL FOR

1 An Act establishing the criminal offense of sexual exploitation
2 of a student with a disability by an employee of a community
3 college and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 614.1, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15. *Sexual exploitation of a student with*
4 *a disability by an employee of a community college.* An action
5 for damages for injury suffered as a result sexual exploitation
6 of a student with a disability by an employee of a community
7 college, as defined in section 709.15A, shall be brought within
8 five years of the date the victim last received 4+ services
9 from an employee of a community college.

10 Sec. 2. Section 692A.102, subsection 1, paragraph b,
11 subparagraph (11), Code 2021, is amended to read as follows:

12 (11) Sexual exploitation by a counselor, therapist, or
13 school employee in violation of section 709.15, or sexual
14 exploitation of a student with a disability by an employee of
15 a community college in violation of section 709.15A, if the
16 victim is thirteen years of age or older.

17 Sec. 3. Section 702.11, subsection 2, paragraph d, Code
18 2021, is amended to read as follows:

19 *d.* Sexual exploitation by a counselor, therapist, or school
20 employee in violation of section 709.15, or sexual exploitation
21 of a student with a disability by an employee of a community
22 college in violation of section 709.15A.

23 Sec. 4. NEW SECTION. 709.15A **Sexual exploitation of a**
24 **student with a disability by an employee of a community college.**

25 1. As used in this section:

26 *a.* "4+ services" means secondary planning and transition
27 services intended to give students vocational and life skills
28 to increase independence in adulthood which are part of
29 a student with a disability's secondary schooling and are
30 included in the student's individualized education program.

31 *b.* "Employee of a community college" means a person employed
32 by a community college who, pursuant to a contract between a
33 school district and the community college, provides 4+ services
34 to a student with a disability who is between the ages of
35 eighteen and twenty-one, and includes any of the following:

1 (1) A person who holds a license, certificate, or statement
2 of professional recognition issued under chapter 272.

3 (2) A person who holds an authorization issued under chapter
4 272.

5 (3) A person employed by the community college full-time,
6 part-time, or as a substitute.

7 (4) A person who performs services as a volunteer for a
8 community college and who has direct contact with the student
9 receiving 4+ services.

10 (5) A person who provides services under a contract for such
11 services to a community college and who has direct contact with
12 the student receiving 4+ services.

13 c. *"Individualized education program"* means a written
14 statement for each student with a disability identified under
15 the law who is attending a secondary educational institution,
16 that is developed, reviewed, and revised to ensure that the
17 student with a disability receives specialized instruction and
18 related services.

19 d. *"Student with a disability"* means a person between
20 the ages of eighteen and twenty-one who has a disability in
21 obtaining an education because of a head injury, autism,
22 behavioral disorder, or physical, mental, communication, or
23 learning disability, as defined by the rules of the department
24 of education.

25 2. a. Sexual exploitation of a student with a disability
26 by an employee of a community college occurs when any of the
27 following are found:

28 (1) A pattern or practice or scheme of conduct to engage in
29 any of the conduct described in subparagraph (2).

30 (2) Any sexual conduct with a student with a disability for
31 the purpose of arousing or satisfying the sexual desires of
32 the school employee or the student with a disability. Sexual
33 conduct includes but is not limited to the following:

34 (a) Kissing.

35 (b) Touching of the clothed or unclothed inner thigh,

1 breast, groin, buttock, anus, pubes, or genitals.

2 (c) A sex act as defined in section 702.17.

3 b. Sexual exploitation of a student with a disability by
4 an employee of a community college does not include touching
5 that is necessary in the performance of the community college
6 employee's duties while acting within the scope of employment.

7 3. a. A community college employee who commits sexual
8 exploitation of a student with a disability in violation of
9 subsection 2, paragraph "a", subparagraph (1), commits a class
10 "D" felony.

11 b. A community college employee who commits sexual
12 exploitation of a student with a disability in violation of
13 subsection 2, paragraph "a", subparagraph (2), commits an
14 aggravated misdemeanor.

15 Sec. 5. Section 709.19, subsection 1, Code 2021, is amended
16 to read as follows:

17 1. Upon the filing of an affidavit by a victim, or a parent
18 or guardian on behalf of a minor who is a victim, of a crime
19 that is a sexual offense in violation of [section 709.2](#), [709.3](#),
20 [709.4](#), [709.8](#), [709.9](#), [709.11](#), [709.12](#), [709.14](#), [709.15](#), [709.15A](#),
21 or [709.16](#), that states that the presence of or contact with
22 the defendant whose release from jail or prison is imminent or
23 who has been released from jail or prison continues to pose a
24 threat to the safety of the victim, persons residing with the
25 victim, or members of the victim's immediate family, the court
26 shall enter a temporary no-contact order which shall require
27 the defendant to have no contact with the victim, persons
28 residing with the victim, or members of the victim's immediate
29 family.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill establishes the criminal offense of sexual
34 exploitation of a student with a disability by an employee of a
35 community college and provides penalties.

1 The bill defines "employee of a community college" to
2 mean a person employed by a community college who, pursuant
3 to a contract between a school district and the community
4 college, provides 4+ services to a student with a disability
5 who is between the ages of 18 and 21, and includes any of
6 the following: a person who holds a license, certificate,
7 statement of professional recognition, or an authorization
8 issued under Code chapter 272, whether employed full-time,
9 part-time, or as a substitute. The definition also includes
10 a volunteer for a community college and a person who provides
11 services under a contract for such services to a community
12 college, and who has direct contact with the student receiving
13 4+ services.

14 The bill defines "4+ services" as secondary planning
15 and transition services intended to give a student with
16 a disability vocational and life skills to increase
17 independence in adulthood which are part of a student with
18 a disability's secondary schooling and are included in the
19 student's individualized education program. A "student with
20 a disability" means a person between the ages of 18 and 21
21 who has a disability in obtaining an education because of a
22 head injury, autism, behavioral disorder, or physical, mental,
23 communication, or learning disability.

24 The bill provides that sexual exploitation of a student
25 with a disability by an employee of a community college occurs
26 when any of the following are found: a pattern or practice
27 or scheme of conduct to engage in any sexual conduct with
28 a student with a disability for the purpose of arousing or
29 satisfying the sexual desires of the community college employee
30 or the student with a disability. Sexual conduct includes
31 but is not limited to: kissing, touching of the clothed or
32 unclothed inner thigh, breast, groin, buttock, anus, pubes, or
33 genitals, or a sex act as defined in Code section 702.17. It
34 does not include touching that is necessary in the performance
35 of the community college employee's duties while acting within

1 the scope of employment.

2 The bill provides that an employee of a community college who
3 engages in a pattern or practice or scheme of conduct to engage
4 in such sexual conduct with a student with a disability commits
5 a class "D" felony. An employee of a community college commits
6 an aggravated misdemeanor if the employee of a community
7 college engages in such sexual conduct with a student with a
8 disability.

9 A class "D" felony is punishable by confinement for no more
10 than five years and a fine of at least \$1,025 but not more
11 than \$10,245. An aggravated misdemeanor is punishable by
12 confinement for no more than two years and a fine of at least
13 \$855 but not more than \$8,540.

14 A person who violates the bill is also subject to a special
15 sentence under Code section 903B.2. A special sentence is a
16 punishment in addition to the punishment for the underlying
17 criminal offense committing the person into the custody of the
18 director of the Iowa department of corrections for a period
19 of 10 years. A person serving a special sentence begins the
20 sentence as if on parole or work release but the sentence is
21 subject to a revocation of release for up to two years for a
22 first revocation and five years for any second or subsequent
23 revocation.

24 A person who violates the bill is classified as a tier II sex
25 offender under Code section 692A.102(1)(b)(11) if the child is
26 13 years of age or older, and is required to register as a sex
27 offender under Code section 692A.103.

28 The bill makes conforming Code changes to Code sections
29 614.1 (statute of limitations periods), 702.11 (definition of
30 forcible felony), and 709.19 (no-contact order upon dependant's
31 release from jail or prison).